

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
MDL NO. 1456  
CIVIL ACTION NO. 01-12257-PBS

IN RE: :  
PHARMACEUTICAL INDUSTRY AVERAGE :  
WHOLESALE PRICE LITIGATION :  
:  
THIS DOCUMENT RELATES TO :  
01CV-12257-PBS and 01-CV-339 :

DEPOSITION OF: CHRISTINE POON

TUESDAY, NOVEMBER 30, 2004

Deposition of CHRISTINE POON, taken in the  
above-entitled matter before WINIFRED A. HANDEL, a  
Certified Shorthand Reporter (License No. XI00421) and  
Notary Public of the State of New Jersey, taken at the  
offices JOHNSON & JOHNSON, One Johnson & Johnson  
Plaza, New Brunswick, New Jersey, on Tuesday, November  
30, 2004, commencing at 9:40 a.m.

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1 CHRISTINE POON,  
2 One Johnson & Johnson Plaza, New Brunswick, New Jersey  
3 08933, having been first duly sworn, was examined and  
4 testified as follows:

5  
6 EXAMINATION

7 BY MR. MACORETTA:

8 Q. All right. Ms. Poon, good morning. My  
9 name is John Macoretta. I'm here for the plaintiffs  
10 to ask you some questions today. Have you had a  
11 deposition taken before?

12 A. Yes.

13 Q. So, you're somewhat familiar with the  
14 process?

15 A. Yes.

16 Q. I'll just remind you very briefly -- I'm  
17 sure Mr. Schau has talked to you in detail about it.  
18 While I can see you nod your head, the court reporter  
19 can't take that down. So, you have to say yes or no,  
20 whatever you're going to say. All right?

21 A. Yes.

22 Q. And I can assure you that if I don't

1 understand your answer, I'm going to ask you to  
2 explain it. So, we can agree at the beginning if you  
3 don't understand the question, you'll tell me, and  
4 I'll try to rephrase it or explain it somehow.

5 A. Yes.

6 Q. What's your current job title?

7 A. Worldwide Chairman - Pharmaceuticals and  
8 Nutritionals.

9 Q. Does that mean that you have  
10 responsibility for all of the J&J operating companies  
11 that make or sell pharmaceutical products?

12 A. That's correct.

13 Q. And there are some other divisions in  
14 J&J other than pharmaceuticals and nutritionals?

15 A. That's right. Yes, there are.

16 Q. What are they?

17 A. They're in the consumer business.  
18 They're in the medical device business sectors.

19 Q. How long have you had this job?

20 A. Since the end of 2001.

21 Q. When did you come to J&J?

22 A. At the end of 2000.

1 would be thinking of list price in that context at  
2 J&J; is that fair?

3 A. I would be thinking of the -- of our  
4 published list price. Correct.

5 Q. Do you understand that to be equivalent  
6 to the WAC price of the drug?

7 A. I don't believe -- I don't believe  
8 that's true. I can't tell you how WAC is calculated,  
9 but it's calculated off of our manufacturer's price or  
10 list price.

11 Q. To your understanding, is there a close  
12 relationship between the WAC and the list price of  
13 your drugs?

14 A. My understanding is that there is a  
15 close relationship.

16 Q. And is it correct that when Johnson &  
17 Johnson announces a new list price for a product, it  
18 also announces a suggested AWP for that product?

19 MR. SCHAU: Object to form.

20 Q. You can answer that.

21 MR. MACORETTA: Well, I don't  
22 understand. What's wrong with that?

1 MR. SCHAU: Johnson & Johnson doesn't  
2 announce list prices.

3 Q. Fair enough. Do you understand when one  
4 of the Johnson & Johnson operating companies announces  
5 a list price for a product, it also announces a  
6 suggested average wholesale price for the product?

7 A. I don't know that. I'm going to suggest  
8 that each operating company at Johnson & Johnson does  
9 things and makes those decisions on their own.

10 Q. Do you know if there's any relationship  
11 typically between the list price and the suggested AWP  
12 announced by the operating companies?

13 A. I believe that it has been the practice  
14 at the operating companies to focus on their list  
15 price changes and decisions, that that average  
16 wholesale price, if there was a -- if an operating  
17 company were to suggest what that price was, it was  
18 practice to suggest it to be 20 per cent different  
19 than our list price or manufacturer's price. In --  
20 that was our practice, but that's the operating  
21 companies' practices.

22 Q. Do you know how that came to be their

1 practice?

2 A. I don't know.

3 Q. Do you know if that's still their  
4 practice today?

5 A. I believe it's still the practice today.

6 Q. Is there any policy or instruction from  
7 anyone at Johnson & Johnson to the operating companies  
8 as to what the relationship should be between list  
9 price and the suggested AWP?

10 A. No. Not that I know of.

11 Q. So, is there any policy that would stop  
12 an operating company from changing that relationship,  
13 say, making the suggested AWP WAC plus 10 per cent or  
14 WAC plus 30 per cent?

15 A. I have to say that we, at least as long  
16 as I've been here, that I've had -- we've -- we don't  
17 discuss AWP. It's -- our focus is what the list price  
18 is, and my discussions with any of the individual  
19 operating companies would be around what is the  
20 rationale for their list price changes.

21 My understanding is that the AWP is a  
22 automatic calculation that's done, either suggested by

1 our operating companies or done by the various books  
2 that publish this -- these prices or these AWP's.

3 Q. Is it correct that before an operating  
4 company can change the price, the list price of a  
5 product needs to get approval from someone at Johnson  
6 & Johnson corporate?

7 A. Well, the practice of our pricing is  
8 every individual operating company has brand managers.  
9 Those product managers decide, based on a whole host  
10 of reasons, that they either will keep their prices  
11 the same or they intend to raise their prices, and  
12 there is an approval process within the operating  
13 companies that that goes through, which ultimately  
14 will go up to the president of the company.

15 Q. Who it goes through is the president of  
16 the operating company?

17 A. The president of that particular  
18 operating company.

19 Q. But then does the president of the  
20 operating company need to get approval from either the  
21 company group chairman or you in your position?

22 A. They'll certainly go through the company

1 group chairman. I don't know what that process is,  
2 what the company group chairman --

3 Q. Will the company group chairman obtain  
4 your approval for a price increase?

5 A. I will typically see once a year  
6 normally at our -- what we call our business planning  
7 cycles what the intention of all of our companies are  
8 in terms of their goals for next year, and that would  
9 also include any price actions that they might take.  
10 I'd see that once a year, and we would have a  
11 discussion on that, and generally after that discussion,  
12 they've got the go-ahead to take those actions.

13 Q. Up to whatever it is that's in the plan?

14 A. Whatever they proposed. up to that level.

15 Q. And that's in the context of discussion  
16 of an annual business plan?

17 A. Usually an annual business plan.

18 Q. So, if one of the operating companies  
19 wanted to change that relationship between list price  
20 and AWP to something other than 20 per cent, would  
21 that be something that they would have to seek  
22 approval from the company group chairman for?

1 MR. SCHAU: Object to form. Foundation.

2 Q. You can answer.

3 A. It's never happened since I've been here.  
4 So, I don't know. I don't know what would happen.

5 Q. Well, was it -- if it happened, was that  
6 something you would expect the company group chairman  
7 to be advised of?

8 A. I would expect that some conversation  
9 would happen. Like I said, it's never happened  
10 before. So, we're not even -- well, it's just never  
11 happened.

12 Q. And just so we understand, the price the  
13 operating companies charge for their various products  
14 is either the list price or some derivative of list  
15 price in most situations; is that right?

16 A. The amount that we charge -- the amount  
17 that people -- the amount that we charge for the  
18 product is our list price or some derivative of our  
19 list price.

20 Q. Meaning you have a contract that says  
21 list price minus 5 per cent or we'll give you a 2 per  
22 cent discount?

1           A.       Right. Right. That's probably right.  
2       To be honest, I haven't personally looked at any of  
3       our contracts with our various customers, but our sort  
4       of North Star is our list price. That's our benchmark.

5           Q.       Does Johnson & Johnson ever -- I'm  
6       sorry. Do any of the operating companies ever charge  
7       any of their customers AWP for any of their products?

8           A.       I'm not aware of that.

9           Q.       And for the most part, is it correct  
10      that -- let me try it this way. Is it correct that  
11      the operating companies' biggest customers are  
12      generally drug wholesalers?

13          A.       That's correct.

14          Q.       Do you know if the wholesalers ever  
15      charge any of their customers an AWP price for a  
16      product?

17          A.       I do not know that.

18          Q.       Why do the operating companies state an AWP?

19          A.       As I mentioned, I believe in the  
20      industry AWP is a number, a benchmark, a calculation  
21      -- a number that some of the payers use as a method to  
22      reimburse the providers for their services and the

1 products. So, I think that's why AWP is in some  
2 categories and some products something that is  
3 necessary.

4 Q. It's necessary so that the payers can  
5 determine how much to pay for the products?

6 A. Right. No. That the reimbursers, the  
7 people who are reimbursing the payers, know how much  
8 to reimburse the providers for their services.

9 Q. Meaning the patients or their insurers?

10 MR. SCHAU: Object to form.

11 Q. When we say payers, for the most part --

12 MR. SCHAU: Object to form.

13 Q. When we talked about payers in that last  
14 conversation, do you understand payers to mean either  
15 individual patients or their insurers?

16 A. I don't know about -- I mean it for  
17 either the government as a payer or insurance  
18 companies who are payers.

19 Q. While we talked a minute ago, I guess,  
20 the focus at Johnson & Johnson, for the most part, is  
21 on the list price of your drugs, isn't it correct that  
22 at least for Procrit and Remicade there is some focus

1 way they want, but the GOC, what we call the GOCs or  
2 the group operating committees, are the worldwide  
3 management sort of, quote, board.

4 Q. I guess I'm not understanding how the  
5 group operating -- the GOCs are broken down. There's  
6 one GOC just for the consumer business you said?

7 A. I know there's one for the consumer,  
8 there's one for pharma, and there's one for medical  
9 devices. There might be more out there, but those are  
10 the ones I know of.

11 Q. So, the pharma GOC would include the  
12 company group chairmen from, for example, the biotech  
13 and nonbiotech parts?

14 A. Right.

15 Q. And who else would be on that?

16 A. All the company group chairmen for all  
17 the international businesses. We have two -- one from  
18 Europe, one from Asia Pacific, Latin America. R&D  
19 would be on there. HR, human resources. IM,  
20 information management. Lawyers, regulatory people.

21 Q. When you say HR and IM, those are HR and  
22 IM people from Johnson & Johnson corporate?

1           A.       Human resources. So, the finance  
2       persons would be David Sheffield, who reports directly  
3       to Bob Darretta.

4           Q.       Each of the company group chairmen, do  
5       they have their own staff of finance people and HR  
6       people and IM people?

7           A.       I don't believe so.

8           Q.       What does their staff consist of?

9           A.       Their staff consists of -- it will vary.  
10      Each person will vary.

11          Q.       I'm interested in just the U.S. pharma,  
12      meaning, I guess the way you break it down, the  
13      biotech, the nonbiotech, and whatever is covered,  
14      urology, OTC business.

15          A.       Right. So, Seth Fischer, who is the  
16      nonbiotechnology company group chair, would have his  
17      presidents -- three presidents reporting to him. He  
18      has a guy named Joe Bondi, who is his financial  
19      person, and he also has an HR person reporting to him  
20      and a medical person. Joe Scodari, on the other hand,  
21      I do not believe has a finance person, I don't believe  
22      he has an HR person, but he might have an IM person.

1 Q. So, it's a pretty small group of people  
2 who work directly for the company group chairmen.

3 A. Yeah. Exactly, but it depends. It  
4 depends on the company group chairman.

5 MR. MACORETTA: I'm going to change  
6 topics now. I don't know if you want to take a break  
7 for a minute.

8 (Recess.)

9 MR. MACORETTA: We're back on the  
10 record.

11 Q. Ms. Poon, I wanted to talk for a few  
12 minutes about price changes and how that happens. We  
13 talked earlier about the idea that the annual plan  
14 would contemplate a certain level of price increase  
15 during the year, right?

16 MR. SCHAU: Object to form.

17 Q. Is that fair?

18 A. Each operating company would develop a  
19 financial plan, and it could be that the product  
20 managers decide that a pricing action is acceptable or  
21 they could decide that it's not.

22 Q. But if they decide that they wanted a

1 price increase during the coming year, that should be  
2 reflected in the annual plan, right?

3 A. Usually it would be reflected in the  
4 annual plan. It should be reflected in the annual plan.

5 Q. Do you give the operating companies any  
6 guidance as to what level of pricing increase is  
7 acceptable or unacceptable?

8 A. I don't.

9 Q. So, I guess you and the company group  
10 chairmen review whatever is in there, and if you have  
11 some question or concern about their proposed price  
12 increase, you talk to them about it?

13 A. That's right.

14 Q. Presumably your thoughts are taken into  
15 account?

16 A. Sometimes not.

17 Q. And in that scenario, I guess you would,  
18 at least theoretically, have the ability to say no,  
19 I'm not going to approve this annual plan.

20 A. Usually -- it's obviously a give and  
21 take, and there are times that based on their  
22 rationale, their thinking, what they know is happening

1 in the marketplace, they believe it's the right thing  
2 to do. It's not part of our culture to, you know --  
3 we're decentralized. The operating companies are  
4 accountable. So, it's not a part of our culture to  
5 have a lot of people trying to second guess the  
6 operating companies.

7 Q. But would it be your view that they at  
8 least need to convince you that they -- what they want  
9 to do is the right thing to do?

10 A. They do.

11 Q. And what's the annual plan -- I guess I  
12 don't want to use finalized. That's not a concept  
13 that you would use at Johnson & Johnson. In some  
14 version you approve or don't approve the annual plan.

15 A. Yes. There is a plan that, as I  
16 mentioned, it continues to be adjusted, but there is  
17 sort of a final plan which would be put to bed sometime  
18 in December, which would be the plan against which we  
19 are judging are you on plan or are you not on plan.

20 Q. I mean, do you send an E-mail or sign  
21 off yes, I have approved this plan or how do we know  
22 what the annual one is and whether or not you're on

1 board with it?

2 A. You know, it's vague to me. Again, we  
3 set these targets. Actually, the way we do -- the way  
4 things are done is -- in the pharmaceutical group is  
5 that we're sort of on a two year rolling cycle. So,  
6 at any given moment, we know what we want to do in  
7 '05, but I also have an idea of what we want to do in  
8 '06. So, it's constantly rolling, and at some point  
9 next year we're going to know what we want to do in '07.

10 So, we're always working off that kind  
11 of target that we have preset a number of years in  
12 advance, and we're always looking to see are we on  
13 that target, are we off that target. So, I guess I'm  
14 always sort of thinking or if we're generally on that  
15 target, it's called final. There's not a -- it's not  
16 an expression or a gavel that comes down that says  
17 it's final.

18 Q. Or a stamp on a piece of paper?

19 A. There's no stamp.

20 Q. But presumably, if I went to the  
21 president of one of the operating companies right now  
22 and said can I see the final version of the operating

1 plan for '05, they would be able to hand me some  
2 document which would reflect that or no?

3 A. Probably in the next couple of weeks  
4 they could do that.

5 Q. And when one of the operating companies  
6 decides it's time to take the price increase they  
7 mentioned in the annual plan, what process or  
8 approvals do they need to do -- before they can put  
9 that price increase into effect?

10 A. They'll have to go through whatever  
11 process their own operating company wants them to go  
12 through, and usually I would, if it's a single  
13 product -- I might get a phone call from the company  
14 group chairman that says, "As you remember, we had  
15 planned to have a price increase on such and such a  
16 product. We're about to do that, you know. Anything  
17 I need to know, any concerns out there that, you know  
18 -- that you might have," and if it's already been  
19 preagreed to, it usually just goes.

20 If there's a cluster of them, you know,  
21 the company chairman might want to come and just kind  
22 of take me through the cluster of those price increases.

1 Q. Have there been occasions where you've  
2 said no, don't take this price increase now for  
3 whatever reason?

4 A. Yes, I have.

5 Q. Let me show you what we're going to mark  
6 as, I guess, Exhibit Poon 004, right?

7 (Exhibit Poon 004 was marked for identification.)

8 Q. This seems to -- well, this seems to be  
9 a document in which Ortho Biotech is asking for, I  
10 guess, Carol Webb, yourself, and Bill Weldon's  
11 approval to proceed with a price action; is that fair?

12 A. Right.

13 Q. For Doxil. First of all, on January 4,  
14 2002, who is Carol Webb?

15 A. Carol Webb was the company group  
16 chairman for our Ortho Biotech businesses.

17 Q. Is she still with J&J?

18 A. She isn't. She retired about a year ago.

19 Q. So, at that time she would be the  
20 company group chairman for Ortho Biotech and Centocor?

21 A. No. Just Ortho Biotech. Ortho Biotech  
22 at that time was not only a U.S. company, but also

1 some operating companies ex-U.S. in Europe.

2 Q. So, the structure we talked about  
3 earlier about how you had one company group chairman  
4 for the biotechs and one for the nonbiotechs, that  
5 didn't exist in January of '02.

6 A. No, it did not.

7 Q. So, who was the company group chairman  
8 for Centocor in January of '02?

9 A. It was Dave Holvack.

10 Q. Was his group bigger than just Centocor?

11 A. He had Centocor reporting to him.

12 Q. Anybody other than Centocor?

13 A. No.

14 Q. He was the company group chairman for  
15 one company?

16 A. That's right.

17 Q. And Ms. Webb had just Ortho Biotech or  
18 some other company?

19 A. She had Ortho Biotech U.S., and we had  
20 four Ortho Biotech companies in Europe. So, she had  
21 the U.K., France, Germany, Italy, I think, reporting  
22 in to her.

1 Q. And Mr. Weldon is your boss?

2 A. Mr. Weldon was my -- is my boss and was  
3 my boss at the time. This was a period in time that I  
4 had just taken over my new responsibilities, and I  
5 think I took on my responsibilities in October,  
6 November of '01.

7 Q. In this memo, Mr. Reedy talks about the  
8 -- I'm looking at the next to last paragraph. "This  
9 recommendation has been reviewed with the PGSM Health  
10 Economics Group..." What is that?

11 A. There is a group that is part of what we  
12 call our pharmaceutical global sales and marketing  
13 organization, and in it they have a group that is a  
14 health economics group that is a group that has  
15 expertise, analytical ability to provide advice and  
16 counseling to the operating companies.

17 So, normally -- doesn't always happen,  
18 but normally an operating company would go to that  
19 group just to seek advice about competitive activities  
20 and global activities, you know, what is the  
21 government political environment. So, this price  
22 increase against that political environment we're

1 working in, how would that look, how would that be  
2 perceived, is this the right time to do it.

3 Q. That's in the U.S. and outside the U.S.?

4 A. Yes. This group does work for all of  
5 our companies around the world.

6 Q. So, presumably there would be some  
7 documents from somebody at Ortho Biotech to the PGSM  
8 Health Economics Group saying, "This is the price  
9 increase we want to take for Doxil. Give us your  
10 thoughts" --

11 MR. SCHAU: Objection.

12 Q. -- or something. You can answer.

13 A. I don't know whether there would be a  
14 document. I know that a product manager in Ortho  
15 Biotech would, if they've said this, they probably  
16 went and sought somebody's advice. Whether there was  
17 a document or not, I don't know.

18 Q. Now, is this something that's required  
19 before you're going to approve a price increase? That  
20 PGSM looks at it?

21 A. It's not required. It's not required,  
22 but I will tell you that I will feel a lot more

1 comfortable if our global groups looked at it.

2 Q. The handwriting on there, I think it  
3 says F, and then something E-C or E-L.

4 A. Right.

5 Q. Do you see that? Is that your  
6 handwriting?

7 A. That's probably -- F means file, and  
8 that means next -- I think it's next E-C is Executive  
9 Committee.

10 Q. What does that mean? E-C?

11 A. It means that -- just put it in the file  
12 so that the next time I have an executive committee  
13 meeting it'll be in my file.

14 Q. Executive committee is executive  
15 committee of all of Johnson & Johnson, right?

16 A. Our executive committee is composed of  
17 Bill Weldon -- the current executive committee is  
18 composed of Bill Weldon, his direct reports, and  
19 corporate staff, but not all corporate staff. Some  
20 corporate staff.

21 Q. Fair enough. Again, you're one of Mr.  
22 Weldon's direct reports.

1 A. Yes.

2 Q. So, is this something you would  
3 typically discuss at the executive committee or  
4 mention to the pricing group?

5 A. Well, at this time Ralph Larsen was the  
6 chairman, and my -- I don't have a memory of why I  
7 would, because I normally do not discuss price at the  
8 executive committee. So, I'm just thinking that I  
9 might have done this, because I knew I would see Bill  
10 at the next executive committee meeting, and I would  
11 just want to talk to him about this particular pricing  
12 action we were taking.

13 This was a moment where Ralph Larsen had  
14 created two vice chairmen, and Bill was one of them,  
15 and Bill was running both the pharmaceutical  
16 companies, OTC companies, and I don't know what else  
17 he was running, but the businesses had been split up  
18 between these two vice chairmen, and so that's  
19 probably why I had asked it to be filed, so that I  
20 could sort of remember to tell Bill about it or to  
21 talk to Bill about it.

22 Q. In this memo, not exactly this form, but

1 a form similar to this from the company presented to  
2 the company group chairman and you, is that sort of a  
3 standard format for a pricing action?

4 A. No. There's no standard format. It  
5 might come in a letter like this. They might come in  
6 a multi-page report. It might just be, you know -- of  
7 course, we talked about this at the business plan  
8 meeting, and if you remember, we'd like to do this.

9 Q. But the price -- we talked about this --  
10 is that typically written down somewhere on an E-mail  
11 or a piece of paper?

12 A. It might be just my one on ones where  
13 they say, "You remember we were going to take that  
14 price increase. We decided to do it. We decided not  
15 to do it." Whatever the content may be.

16 Q. In fact, this memo references in the  
17 second paragraph, the second sentence, "The attached  
18 competitive pricing analysis indicates that a key  
19 competitor," et cetera, et cetera. Is it common that  
20 there would be some pricing analysis attached to the  
21 documents like this seeking approval for a price  
22 increase?

1           A.       There could be. There could be.

2           Q.       Are there occasions --

3           A.       I mean, it's not always attached to me,  
4 but if you think about this bottoms-up strategy, the  
5 bottoms-up strategy would be some rationale of why a  
6 price increase would be acceptable or not acceptable,  
7 and certainly one of the things that a product manager  
8 would consider would be the competitive environment.

9           Q.       Are there occasions where you would ask  
10 for such an analysis or ask for more detail on why you  
11 were doing this now?

12          A.       Usually the stuff I get is pretty clear.  
13 I don't remember asking for more information, but I  
14 could have.

15          Q.       Let me show you Exhibit Poon 005.

16               (Exhibit Poon 005 was marked for identification.)

17          Q.       Similar format as Exhibit Poon 004 seeking a  
18 price increase except for several products in this  
19 one, right?

20          A.       Yes.

21          Q.       Although this is dated August 21, 2001,  
22 and I'm wondering why you were getting it then.

1           A.       I don't know, because I don't remember  
2 being in my job until the latter part of 2001, but  
3 maybe it was announced and I wasn't formally moved to  
4 that job. I don't know. I don't know.

5           Q.       If we could go through the ccs here, I  
6 was wondering if you could tell me who some of these  
7 people are.

8           A.       Sure.

9           Q.       I could read them out, but if you could  
10 just --

11          A.       These people?

12          Q.       Yes.

13          A.       Rich Gatens reports to Dave Sheffield.  
14 So, he's in the finance group. Steve Hill, I believe,  
15 is also in the Dave Sheffield organization. I could  
16 be wrong on that. Dick Moran is the -- I'll take that  
17 back. I don't know who Steve Hill is. Dick Moran is  
18 the CFO for Ortho Biotech U.S. Bill Pearson, I don't  
19 remember the job that he had at Ortho Biotech at the  
20 time, but he is one of the sales and marketing  
21 executives at Ortho Biotech. Catherine Piech is -- I  
22 believe at this time was working for that PGSM

1 organization. Joe Schultz was the head of marketing  
2 and sales at Ortho Biotech, and you know Dave Sheffield.

3 Q. Went we talk about the finance group,  
4 Mr. Sheffield's group, I guess, that's above the  
5 operating companies, right?

6 A. Dick Moran is in the operating company.  
7 He is the CFO.

8 Q. But Mr. Sheffield --

9 A. Mr. Sheffield reports to Bob Darretta,  
10 who is our CFO.

11 Q. The J&J wide CFO?

12 A. Right.

13 Q. So, what's the finance -- the J&J wide  
14 groups, what's Mr. Sheffield's department's role in  
15 this price increase? Do they have some review or  
16 analysis or approval function here?

17 A. They probably help in the analysis. So,  
18 when these folks say the proposed price action would  
19 deliver X net sales, that they would -- all of these  
20 financial people would be helping to calculate that  
21 number and to make sure that it was accurate.

22 Q. Does the finance department, meaning Mr.

1 Sheffield's group, I guess, have some sign off or  
2 approval financial here as well?

3 A. No. You're asking did the Dave  
4 Sheffield organization have a sign off or approval.

5 Q. Yes.

6 A. Not that I know of.

7 Q. Is there some other J&J corporate  
8 organization that had some sign off or approval over  
9 this price increase?

10 A. Other than me, who looks at it?

11 Q. Yes.

12 A. It's me.

13 Q. It's not like someone from the CFO's  
14 office also has to look at it and approve it.

15 A. No.

16 Q. I show you what we're going to mark as  
17 No. 6.

18 (Exhibit Poon 006 was marked for identification.)

19 A. Okay.

20 Q. This time it's Mr. Scodari --

21 A. Right.

22 Q. -- asking for the approval, and at this

1 point what was his role in March of '02?

2 A. He was responsible for our Janssen and  
3 Ortho-McNeil businesses, our operating companies.

4 Q. He was a company group chairman?

5 A. He was a company group chairman, and  
6 those operating companies reported to him.

7 Q. Although in the first paragraph he  
8 references "Centocor currently has no planned pricing  
9 action this year, however, management has been asked  
10 to reassess this aspect of their forecast." So, was  
11 Centocor an operating company Mr. Scodari was  
12 responsible for?

13 A. No, he was not, nor was he responsible  
14 for OBP, neither was he responsible for Neutrogena.

15 Q. But on page 2, we're talking about their  
16 requests as well, right?

17 A. Normally, if the -- OrthoNeutrogena  
18 reports into our consumer group, and they have in that  
19 company some dermatology products that are  
20 prescription products. So, if the -- if there is  
21 going to be a cluster of price actions that the  
22 Scodari companies want to take, they will normally

1     courtesy call up OrthoNeutrogena and say, "Are you  
2     going to take a price increase? Do you want to sort  
3     of get this all up on the radar screen now or do you  
4     want to go separately?"

5                 In this particular case, it looks like  
6     they wanted to do something. So, Scodari wrote it on  
7     behalf of OrthoNeutrogena.

8                 Q.     Focusing on the sentence in the first  
9     paragraph about Centocor management has been asked to  
10    reassess this aspect of their forecast, meaning no  
11    pricing action" -- do you see that?

12                A.     Centocor. Yes. However, management has  
13    been asked to reassess this aspect of their forecast.  
14    So --

15                Q.     I mean, the question is what does that  
16    mean. Who asked management to --

17                A.     I don't know. It could be Holvack. It  
18    could be the president of Centocor at the time. I'm  
19    not sure if Tony Vernon was the president.

20                Q.     Exhibit Poon 004 and Exhibit Poon 006 all end with  
21    something that says may we have your approval or  
22    request your approval. How do you convey your approval?

1           A.       I might call them up and say it's okay.  
2       I might see them on a one on one and say it's okay. I  
3       might write them an E-mail and say it's okay. I might  
4       ask for more information because, you know, I'm a  
5       little -- you know, I might be worried about any  
6       number of things that I want more information on, but --

7           Q.       But they're not going to take this price  
8       increase until somehow you convey your approval?

9           A.       Yeah. Normally they will know the price  
10      is okay with me in some way.

11          Q.       And there may or may not be a piece of  
12      paper reflecting your approval?

13          A.       Right. There may or may not be.

14          Q.       I show you what we are going to mark as  
15      No. 7. You don't need to read all of this. You can  
16      if you want to, but I'm not going to ask you about all  
17      the details of it.

18               (Exhibit Poon 007 was marked for identification.)

19          Q.       Let me know. Like I said, I'm not going  
20      to ask you about all the pages.

21          A.       All right.

22          Q.       Turning to the second page, which I

1 believe is the first page without a post-it, this is  
2 Mr. Scodari asking for a price adjustment for  
3 Retavase; is that fair?

4 A. That's right.

5 Q. And at this time Mr. Scodari was the  
6 company group chairman that included Centocor?

7 A. That's right, Centocor, and the one --  
8 the job that we described in the very beginning of  
9 this deposition.

10 Q. The current description.

11 A. The current -- his current job started  
12 around this time.

13 Q. And on the cc list T. Vernon is Mr.  
14 Vernon, the president of Centocor?

15 A. That's correct.

16 Q. I presume that's your handwriting there?  
17 It says okay?

18 A. Yeah.

19 Q. Obviously, you agreed with what was  
20 going on here.

21 A. Yes, I did.

22 Q. On the front page, the post-it note that

1 covers some of the text, is that your handwriting on that?

2 A. No, it's not.

3 Q. Any idea who that is?

4 A. Nope.

5 Q. Now, these memos go to you and Bill  
6 Weldon I see. Do you obtain Mr. Weldon's approval  
7 before you sign off on these?

8 A. I do not. I do not, and I have not  
9 sought Weldon's approval for any price increase  
10 probably since, you know, maybe mid -- I took the job  
11 over in '01, and probably by the first part of '02, I  
12 was the last one to look at the price increases.

13 Q. And the way all these memos, I noticed,  
14 are typed to you and then under you is a to Bill  
15 Weldon, does that mean Mr. Weldon gets a separate copy  
16 of this do you know or --

17 A. What this means, it means that he  
18 probably gets a copy of it. Yeah.

19 Q. But once you sign off, that's enough,  
20 and they can go implement the price action?

21 A. That's right. That's right. I'm going  
22 to -- what's odd to me, this is '03, and by this time

1 we had -- we were not informing Bill about our price  
2 actions.

3 I'm going to think that one of the  
4 reasons that this was written to Bill was just to  
5 inform him of the rationale of why we were not taking  
6 a price increase on Remicade, because he would have  
7 had -- I had little interest in Retavase being, you  
8 know, increased or not increased. So, our focus --  
9 the interest was around Remicade, and why leaving the  
10 price -- why we wanted to leave the price flat at that  
11 point.

12 Q. So, you approved the no price change for  
13 Remicade as well?

14 A. There was no price increase for Remicade.

15 Q. Now, I'm going to talk for a minute  
16 about the process for setting or approving the price  
17 of a new product. Can you explain the approval process  
18 or the review process necessary beyond the operating  
19 company for setting the price of the new product?

20 A. We haven't approved that many new products  
21 since I've been here. I can only think of two.

22 Q. I tell you what. I'm not trying to play

1 hide the ball. Let me show you what we're going to  
2 mark as Exhibit Poon 008.

3 (Exhibit Poon 008 was marked for identification.)

4 Q. Does Exhibit Poon 008 represent the process by  
5 which new product pricing is approved at the Johnson &  
6 Johnson?

7 A. Like I said, I can only remember two  
8 products that we've approved. I think we followed  
9 this process for those two.

10 Q. Let me talk to you about some of the  
11 things on here. First of all, it indicates you are a  
12 member of the global pharmaceutical pricing committee;  
13 is that right?

14 A. Yes.

15 Q. What does the global pharmaceutical  
16 pricing committee do?

17 A. We're looking at the support and the  
18 rationale for a proposed pricing -- for worldwide  
19 pricing for new product around the world.

20 Q. So, the GPPC focuses exclusively on new  
21 products?

22 A. On new products.

1 Q. And no role in changing any price for  
2 existing products?

3 A. No, we do not.

4 Q. By the way, when you say worldwide  
5 pricing, is there one worldwide price for Johnson &  
6 Johnson products?

7 A. No.

8 Q. So, what we call the list price in the  
9 U.S. may not be the list price in another part of the  
10 world?

11 A. That's correct.

12 Q. We talked about a lot of the members of  
13 the GPPC, who are listed here. Who is Mr. Norton?

14 A. David is our company group chairman for  
15 Europe.

16 Q. And Mr. Zito Sartarelli?

17 A. He's our company group chairman for Asia  
18 Pacific and Latin America.

19 Q. The GPPC consists of you and the company  
20 group chairman, if I'm reading this correctly.

21 A. That's right.

22 Q. And there are seven on here, but I guess

1 Ms. Webb is no longer with us.

2 A. That's right. There's other people now  
3 that are on this because people's jobs have changed.

4 Q. Just to deal with some acronyms and some  
5 names on this document, the first box talks about  
6 health economics and then the PGSM GCT.

7 A. So, these are what they call the global  
8 commercial teams, and these are comprised of the key  
9 brand representatives from each of the key countries  
10 around the world.

11 Q. From the operating companies for that  
12 brand around the world?

13 A. That's right. So, let's make it up.  
14 Let's say that there's a new product coming through  
15 Janssen. There would normally be a person at Janssen  
16 who is the brand manager. Just as there would be in  
17 Janssen-Cilag Germany, there's a brand manager in that  
18 company that was responsible for this new product.  
19 So, this GCT is a group of those commercial leaders,  
20 representatives from each of the different operating  
21 committees.

22 Q. But PGSM is some group of people beyond

1 the operating companies?

2 A. PGSM, there would be for that product a  
3 person in the global marketing group who is  
4 responsible for that product.

5 Q. The global marketing group is not part  
6 of any specific operating company?

7 A. No.

8 Q. And health economics is another part of PGSM?

9 A. That's correct.

10 Q. And then the box goes down to the global  
11 pricing function. What is that?

12 A. Global pricing function is a group that  
13 is part of the health economics group that is again  
14 this global analytical organization that is looking at  
15 competitive trends, looking at, you know -- what  
16 they're trying to do is to glean from our clinical  
17 trials what the value of that product is that we're  
18 bringing to the marketplace.

19 Q. So, their role is to help determine what  
20 the price is going to be?

21 A. It helps to determine the price based on  
22 the health economics of the product that we're

1 bringing to the marketplace. So --

2 Q. By the way, when we talk about new  
3 product, we're not talking just about a completely new  
4 drug, right? We're talking about a new formulation of  
5 an existing drug.

6 A. No. It's a new product. New -- well,  
7 there would be a product like Risperdal Consta, which  
8 as the actual product is the same molecule, but it's a  
9 completely different form. It's an injectable  
10 product; whereas, the original form was a tablet. A  
11 tablet lasts once a day. This new form lasts two  
12 weeks. So, that product would have moved through this  
13 new product pricing approval process.

14 Q. Let me see if I can remember this. I  
15 think in the last few years Johnson & Johnson started  
16 selling a new strength of Flexeril; is that right?

17 A. The McNeil organization did.

18 Q. McNeil started selling a new strength of  
19 Flexeril that you hadn't sold before.

20 A. Right.

21 Q. Did that new strength have to go through  
22 this process?

1           A.       No, it did not. It didn't come through  
2 the process.

3           Q.       Whatever the initial price was for, that  
4 was decided the way other price changes were?

5           A.       Yeah. At the time McNeil was not  
6 reporting to me. So, I actually don't know how the  
7 original price was set.

8           Q.       To finish out some acronyms on here, the  
9 GOC are what we talked about earlier, the group  
10 operating companies -- committee?

11          A.       Committee.

12          Q.       The members of the GOC and the members  
13 of the GPPC are pretty much the same people, correct?

14          A.       The group operating committees is a  
15 bigger organization. So, this GPPC is a subset of the  
16 GOC.

17          Q.       It says, "Communicates Results to LOCs"  
18 at the bottom. I think I know this, but what's an LOC?

19          A.       It's probably a local operating company.

20          Q.       Local means in one country or group of  
21 countries?

22          A.       Yeah. Local local. Raritan, local

1 California. Wherever it is.

2 Q. I didn't mean to interrupt you, if you  
3 were going to finish. Were you finished with your  
4 answer?

5 A. This is the only time I've ever seen  
6 LOC. Normally we use OC as an acronym.

7 Q. You don't have any parts of the business  
8 that are broken down by operating companies for  
9 different parts of the United States, do you?

10 A. I don't think I understand that question.

11 Q. Your example was like local operating  
12 company, Raritan, versus local operating company,  
13 California?

14 A. We have Scios, which is based in  
15 California. That's a local operating company. It's  
16 an operating company in California.

17 Q. But it does business all over -- it's  
18 responsible for the whole U.S.

19 A. That's correct.

20 Q. You don't have any operating companies  
21 whose responsibility is only a part of the U.S., do you?

22 A. No.

1 Q. Okay. Just making sure. So, the final  
2 approval for new product pricing would be the GPPC?

3 A. For new product. I would just say that  
4 the normal, and I can only say it because we've only  
5 done it on two products -- this approval is normally a  
6 corridor of a price. So, we don't tell them a price.  
7 We tell them that usually there's a floor. We don't  
8 want you to be pricing below this level, but  
9 obviously, they can price above that level, and so  
10 there are, for both of those products that I'm  
11 thinking of that went through this process -- there is  
12 an assortment of prices even today.

13 Q. When you say floor, is that one floor  
14 worldwide?

15 A. It's a worldwide floor. We don't want  
16 the price to go below that level.

17 Q. Then it's up to the operating company in  
18 whatever country, that whatever price they want in  
19 that country is appropriate?

20 A. As long as it -- usually we have a  
21 floor, and we have a ceiling. You can imagine nobody  
22 ever goes beyond the ceiling, but as long as it's in

1 that corridor, then we're happy.

2 Q. Let me talk to you for a minute about  
3 the Johnson & Johnson Health Care System. That's not  
4 one of the companies that reports to you, right?

5 A. No.

6 Q. You have an understanding of what they do?

7 A. A vague understanding.

8 Q. What's your understanding vaguely?

9 A. I believe that they are an organization  
10 that is organized around major customers, and they  
11 work with the various operating companies in Johnson &  
12 Johnson, across the operating companies of Johnson &  
13 Johnson in consumer pharmaceuticals and medical  
14 devices, and, you know, negotiate various business  
15 contracts and relationships with those key customers  
16 representing, I guess, the best of what each operating  
17 company is willing to offer up.

18 Q. Were they ever part of your responsibility?

19 A. No.

20 Q. I want to talk to you for a second about  
21 the managed care group or the managed care council.  
22 Are you familiar at all about that?